

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1493 Career Offenders  
**SPONSOR(S):** Public Safety & Domestic Security Policy Committee, Cruz  
**TIED BILLS:** **IDEN./SIM. BILLS:** HB 365

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|    | <b>REFERENCE</b>  | <b>ACTION</b>           | <b>ANALYST</b>    | <b>STAFF DIRECTOR</b> |
|----|---|-------------------------|-------------------|-----------------------|
| 1) | <u>Public Safety &amp; Domestic Security Policy Committee</u> | <u>10 Y, 0 N, As CS</u> | <u>Cunningham</u> | <u>Cunningham</u>     |
| 2) | <u>Criminal &amp; Civil Justice Appropriations Committee</u>  | <u></u>                 | <u></u>           | <u></u>               |
| 3) | <u>Criminal &amp; Civil Justice Policy Council</u>            | <u></u>                 | <u></u>           | <u></u>               |
| 4) | <u></u>   | <u></u>                 | <u></u>           | <u></u>               |
| 5) | <u></u>   | <u></u>                 | <u></u>           | <u></u>               |

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**SUMMARY ANALYSIS**

Section 775.261, F.S. creates the Florida Career Offender Registration Act. The act requires offenders who have been sentenced as a habitual violent felony offender, a violent career criminal, a three-time violent felony offender or as a prison releasee reoffender to register with law enforcement as a “career offender”. The Florida Department of Law Enforcement (FDLE) maintains a statewide database containing information regarding career offenders.

The bill makes it a first degree misdemeanor for any person who has reason to believe that a career offender is not complying, or has not complied, with the requirements of section 775.261, F.S., to, with the intent to assist the career offender in eluding a law enforcement agency that is seeking to find the career offender to question the career offender about, or to arrest the career offender for, his or her noncompliance with the requirements of the section:

- Withhold information from, or fail to notify, the law enforcement agency about the career offender's noncompliance with the requirements of the section, and, if known, the whereabouts of the career offender;
- Harbor, or attempt to harbor, or assist another person in harboring or attempting to harbor, the career offender;
- Conceal or attempt to conceal, or assist another person in concealing or attempting to conceal, the career offender; or
- Provide information to the law enforcement agency regarding the career offender that the person knows to be false information.

This bill creates a 1<sup>st</sup> degree misdemeanor which may impact local jails.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Section 775.261, F.S. creates the Florida Career Offender Registration Act. The act requires offenders who have been sentenced under specified sentencing statutes to register as a "career offender". Specifically, the act defines the term "career offender" as a person who is designated as a habitual violent felony offender,<sup>1</sup> a violent career criminal,<sup>2</sup> a three-time violent felony offender<sup>3</sup> or as a prison releasee reoffender<sup>4</sup>. These sentencing statutes have different criteria but, in general, are used to sentence offenders who have been convicted on multiple occasions of certain felony offenses to enhanced sentences.

A career offender released from a sanction<sup>5</sup> imposed in this state on or after July 1, 2002 is required to register with the sheriff's office in the county in which the career offender establishes or maintains a permanent or temporary residence within 2 working days of establishing the residence.<sup>6</sup> The career offender is required to provide identifying information to the sheriff such as the offender's name, social security number, age, race, date of birth, address.<sup>7</sup> The sheriff provides the information obtained to FDLE, which maintains a statewide database and a searchable public website with this information.<sup>8</sup> The career offender is required to update his or her residence information within 2 working days after any change.<sup>9</sup> Failure to comply with the requirements of the section is a third degree felony.<sup>10</sup>

According to FDLE, as of March 9, 2009, there are 10,758 career offenders in the registry database. Of that number, 8,593 of the career offenders are incarcerated and 2,165 are living in the community.

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<sup>1</sup> s. 775.084(1)(b), F.S.

<sup>2</sup> s. 775.084(1)(d), F.S.

<sup>3</sup> s. 775.084(1)(c), F.S.

<sup>4</sup> s. 775.082(9), F.S.

<sup>5</sup> For the purposes of this section, the term "sanction" includes but is not limited to, a fine, probation, community control, parole, conditional release, control release or incarceration in a state prison, private correctional facility or local detention facility.

<sup>6</sup> s. 775.261(4)(a), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> <http://www.fdle.state.fl.us/coflyer/home.asp>

<sup>9</sup> s. 775.261(4)(d), F.S.

<sup>10</sup> s. 775.261(8)(a), F.S.

### **Effect of the Bill**

The bill makes it a first degree misdemeanor<sup>11</sup> for any person who has reason to believe that a career offender is not complying, or has not complied, with the requirements of the section and who, with the intent to assist the career offender in eluding a law enforcement agency that is seeking to find the career offender to question the career offender about, or to arrest the career offender for, his or her noncompliance with the requirements of the section:

- (a) Withholds information from, or does not notify, the law enforcement agency about the career offender's noncompliance with the requirements of the section, and, if known, the whereabouts of the career offender;
- (b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the career offender;
- (c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the career offender; or
- (d) Provides information to the law enforcement agency regarding the career offender that the person knows to be false information.

Similar language relating to sexual predators and sexual offenders is currently contained in sections 775.21(10)(g), 943.0435(13), and 944.607(12), F.S.

### **B. SECTION DIRECTORY:**

**Section 1.** Amending s. 775.261, F.S.; relating to the Florida Career Offender Registration Act.

**Section 2.** Providing effective date of July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

This bill creates a 1<sup>st</sup> degree misdemeanor which may impact local jails.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

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<sup>11</sup> A 1<sup>st</sup> degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a \$1,000 fine. ss. 775.082 and 775.083, F.S.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 22, 2010, the Public Safety & Domestic Security Committee adopted a strike-all amendment to the bill. The amendment specifies that the penalty for violating the bill's provisions is a 1<sup>st</sup> degree misdemeanor rather than a 3<sup>rd</sup> degree felony, and provides that the bill is effective July 1, 2010. The bill was reported favorably as a Committee Substitute. This analysis reflects the committee substitute.